

150-160 Cactus Avenue – Official Plan and Zoning By-law Amendment Application – Appeal Report

Date: August 15, 2023

To: North York Community Council

From: Director, Community Planning, North York District

Ward: Ward 18 - Willowdale

Planning Application Number: 21 226750 NNY 18 OZ

Related Application Numbers: 21 226762 NNY 18 SA; 21 226756 NNY 18 RH

SUMMARY

On October 18, 2021, an Official Plan and Zoning By-law Amendment application was submitted to permit a redevelopment of the site comprising a 12-storey (46.05 metres) apartment building, a 15-storey (55.30 metres) apartment building, and two blocks of 4-storey (14.85 metres) back-to-back stacked townhouses.

On May 31, 2023, the Applicant appealed the application to the Ontario Land Tribunal (“OLT”) due to Council not making a decision within the time frame prescribed in the *Planning Act*. A case management conference has been scheduled for August 16, 2023.

This report reviews and recommends that the City Solicitor with the appropriate City staff attend the OLT hearing to oppose the application in its current form and to continue discussions with the Applicant to resolve outstanding issues.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the Application, in its current form, for the Official Plan and Zoning By-law Amendment for the lands at 150 to 160 Cactus Avenue.
2. In the event that the Ontario Land Tribunal allows the appeal in whole or in part, City Council authorize the City Solicitor to request that the issuance of any final Orders be withheld until such time as the City Solicitor advises that:

- a) the final form and content of the draft Official Plan and Zoning By-laws are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b) the Owner has satisfactorily addressed the Transportation Services and Engineering and Construction Services matters in the Engineering and Construction Services Memorandum dated December 7, 2022, and any outstanding issues arising from further technical review (including provision of acceptable reports and studies), as they relate to the Official Plan and Zoning By-law Amendment application to the satisfaction of the General Manager, Transportation Services and the Chief Engineer and Executive Director, Engineering and Construction Services;
- c) the Owner has secured replacement of the existing rental housing, including the same number of units, bedroom type and size and with similar rents;
- d) the Owner has secured an acceptable Tenant Relocation and Assistance Plan addressing the right for existing and former tenants to return to a replacement rental unit on the lands at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship, all to the satisfaction of the Chief Planner and Executive Director, City Planning;
- e) City Council has approved the Rental Housing Demolition application (Application 21 226756 NNY 18 RH) under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act*, 2006, which allows for the demolition of the sixty (60) existing rental dwelling units on the site, and the Owner has entered into, and registered on title to the lands, one or more agreements with the City, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, securing all rental housing-related matters necessary to implement City Council's decision;
- f) the Owner has submitted a revised Transportation Demand Management Plan acceptable to, and to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services and that matters arising from such study be secured, if required; and
- g) the Owner has addressed all outstanding issues raised by Urban Forestry and Tree Protection and Plan Review as they relate to the Official Plan and Zoning By-law Amendment application, to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- h) Should it be determined that upgrades are required to the infrastructure to support the development according to the accepted Functional Servicing Report, City Council direct the City Solicitor and appropriate City staff to request that a Holding provision (H) be included in the final form of the site-specific Zoning By-law Amendment, not to be lifted until such time as the owner has made

satisfactory arrangements, including entering into appropriate agreement(s) with the City, for the design and construction of any improvements to the municipal infrastructure and the provision of financial securities to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

- i) In accordance with Section 42 of the *Planning Act*, prior to the issuance of the first above-grade permit, the owner dedicate to the City a minimum of 1,417.38 square metres of unencumbered on-site parkland in the southwest portion of the site, with the exact size, location and configuration of the on-site parkland dedication to be to the satisfaction of the General Manager, Parks, Forestry and Recreation, and such on-site parkland dedication to be transferred to the City, free and clear, above and below-grade, of all easements, encumbrances and encroachments, in an acceptable environmental condition.
- j) City Council approve the acceptance of a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Applicant of the above base park improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation; the development charge credit shall be in an amount that is the lesser of the cost to the Applicant of designing and constructing the above base park improvements, as approved by the General Manager, Parks, Forestry and Recreation and the Parks and Recreation component of the development charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time.

3. City Council authorize the City Solicitor and appropriate City staff to continue discussions with the Applicant to address outstanding issues, including but not limited to those outlined in this report.

4. City Council authorize the City Solicitor and City staff to take any necessary steps to implement City Council's decision.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

A Preliminary Report was adopted by North York Community Council on January 6, 2022 authorizing staff to conduct a community consultation meeting. The decision of the North York Community Council can be found here: [Agenda Item History - 2022.NY29.9 \(toronto.ca\)](#).

SITE AND SURROUNDING AREA

Description: The site is irregular in shape and has an area of approximately 14,171 square metres, with a frontage of approximately 125 metres on Steeles Avenue West and 106 metres on Cactus Avenue.

Existing Use: The site is currently occupied by six blocks of two-storey townhouse buildings containing 60 rental units.

Surrounding Uses:

North: Steeles Avenue West is located directly north of the site. On the north side of Steeles Avenue West are two 12-storey apartment buildings and townhouses.

South: A low-rise residential neighbourhood comprised of semi-detached and single-detached dwellings is located south of the site, as well as Moore Park.

East: A two-storey townhouse development with underground parking and a small surface parking lot is located to the east.

West: A two-storey townhouse development with underground parking and a small surface parking lot is located to the west.

THE APPLICATION

Description: The application proposes the demolition of 60 existing rental townhouse dwellings to permit the redevelopment of the site for one 12-storey (46.05 metres) apartment building and one 15-storey (55.30 metres) apartment building connected by a one-storey lobby, and two blocks of four-storey (14.85 metres) back-to-back stacked townhouses. A 2,126 square metre public park is also proposed on site. A Rental Housing Demolition application has also been submitted for approval to demolish the 60 existing rental dwelling units.

Gross Floor Area and Density: 35,700 square metres, for a density of 2.5 times the lot area.

Unit Count: A total of 467 residential units, including 60 replacement rental units contained within the townhouse blocks. The 467 units include 244 one-bedroom units (52%), 153 two-bedroom units (33%), 66 three-bedroom units (14%) and 4 four-bedroom units (1%).

Access and Parking: A total of 298 vehicle parking spaces, including 251 resident spaces and 47 visitor spaces. Vehicular Access to the site would be provided from Cactus Avenue. The development would also include 360 long-term bicycle parking spaces and 43 short-term bicycle parking spaces.

Additional Information: See Attachments 2, 3 and 6 of this report for a three-dimensional representation of the project in context, a site plan of the proposal, and the Application Data Sheet, respectively. Detailed project information including all plans and reports submitted as part of the application can be found on the City's Application Information Centre at:
<http://app.toronto.ca/AIC/index.do?folderRsn=qRXAamPMxBbXUq0ePvDoYA%3D%3D>

Reasons for the Application: The application to amend the Official Plan is required to redesignate the site from *Neighbourhoods* to *Apartment Neighbourhoods* in order to facilitate the proposed apartment buildings.

Amendments to the City of Toronto Zoning By-law 569-2013 and former City of North York Zoning By-law 7625 are also required to permit the proposed building form, height, density, parking and other site-specific matters.

Rental Housing: The Applicant submitted a Rental Housing Demolition Application (File No. 21 226756 NNY 18 RH) under Chapter 667 of the Toronto Municipal Code for the demolition of the 60 existing rental housing units, as the subject site contains six or more residential units, of which at least one is rental.

Site Plan Control: The application is subject to Site Plan Control. A Site Plan Control application (File No. 21 226762 NNY 18 SA) has been submitted. The Site Plan Control application has not been appealed.

POLICY CONSIDERATIONS

Provincial Land Use Policies: All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (PPS), and shall conform to provincial plans.

Official Plan: The site is designated *Neighbourhoods* on Map 16 of the Official Plan and regulated by Chapter 4 of the Official Plan. As shown on Map 3 of the Official Plan, Steeles Avenue West is an existing major street with a planned right-of-way width of 36 metres. Chapter 3.2.1 of the Official Plan contains housing policies to ensure adequate, affordable and appropriate housing options are available throughout the City and provides direction specific to removal of existing rental housing. Toronto Official Plan policies may be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

Zoning: The site is zoned Residential Townhouse Zone (RT) under Zoning By-law 569-2013 and Multiple-Family Dwellings First Density (RM1) under former North York Zoning By-law 7625.

Design Guidelines: The following design guideline(s) will be used in the evaluation of this application:

- City-Wide Mid-Rise Performance Standards and Addendum;
- City-Wide Tall Building Design Guidelines;
- Townhouse & Low-Rise Apartment Guidelines; and
- Growing Up: Planning for Children in New Vertical Communities.

The City's Design Guidelines may be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/design-guidelines/>

Rental Housing Demolition and Conversion By-law: The Applicant submitted an application on October 22, 2021 for a Section 111 permit pursuant to Chapter 667 of the City of Toronto Municipal Code for the demolition of the existing rental housing units, as the lands subject to the application contain six or more residential units, of which at least one is rental. As per Chapter 667-14, a tenant consultation meeting will be held to review the impact of the proposal on existing tenants of the residential rental property and matters under Section 111.

City Council may refuse a Rental Housing Demolition application or approve an application with conditions, including conditions requiring an applicant to replace the rental units proposed to be demolished and/or to provide tenant relocation and assistance, which must be satisfied before a demolition permit is issued. These conditions implement the City's rental housing protection policies in the Official Plan. However, unlike *Planning Act* applications, decisions by City Council under Chapter 667 are not appealable to the Ontario Land Tribunal.

Section 33 of the *Planning Act* also authorizes Council to regulate the demolition of residential properties. Section 33 is implemented through Chapter 363 of the Toronto Municipal Code, the Building Construction and Demolition By-law, which requires Council approval of the demolition of any residential property that contains 6 or more dwelling units (irrespective of whether any are rental) before the Chief Building Official can issue a demolition permit under the *Building Code Act*.

This proposal requires Council approval under both Chapters 363 and 667 of the Toronto Municipal Code because it involves the demolition of at least six dwelling units and at least one rental unit. City Council has not yet made a determination on the demolition of the existing rental units.

Toronto Green Standard: The TGS is a set of performance measures for green development. Applications for Zoning By-law Amendments, Draft Plans of Subdivision and Site Plan Control are required to meet and demonstrate compliance with Tier 1 of the Toronto Green Standard. The TGS can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/toronto-green-standard/>

COMMUNITY CONSULTATION

A Virtual Community Consultation Meeting was hosted by City staff on February 23, 2022 where approximately 25 members of the community attended. Following a

presentation by City staff and the Applicant, comments related to the following topics were raised:

- Concerns from existing residents about the rental replacement process and timelines;
- Concern about additional traffic that would be generated from the new development;
- Concern about the potential for parking to overflow onto surrounding streets;
- Concern about the impact of construction on the surrounding neighbourhood;
- Concern about shadow impacts of the proposed buildings; and
- Concern about a lack of infrastructure to support additional residents.

COMMENTS

Provincial Policy Framework

Staff's review of this application has had regard for the relevant matters of provincial interest set out in the *Planning Act*. Staff have reviewed the current proposal for consistency with the Provincial Policy Statement, and conformity with the Growth Plan. Staff have concluded that the proposal is consistent with the PPS and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (the "Growth Plan").

Land Use Designation

The site is currently designated *Neighbourhoods* in the Official Plan. Section 4.1 of the Official Plan directs that *Neighbourhoods* are physically stable areas made up of residential uses in lower-scale buildings no higher than four-storeys, and that development in established *Neighbourhoods* should respect and reinforce the existing physical character. The *Neighbourhood* in which the site is located is characterized by low-rise residential dwellings, specifically a mix of single-detached, semi-detached and townhouses.

Policy 4.1.5 of the Official Plan states that no changes will be made through rezoning that are out of keeping with the overall physical character of the entire *Neighbourhood*. However, the policy also directs that lots fronting onto a major street as identified in Map 3 of the Official Plan are to be distinguished from lots located in the interior of *Neighbourhoods* in order to recognize that a more intense form of development may be appropriate. Since the site fronts onto Steeles Avenue West, which is identified as a major street, it is recognized that the lot context and what may be considered appropriate development differs from other lots within the neighbourhood. The application proposes to re-designate the site to *Apartment Neighbourhoods*, as a change in designation is required to permit the proposed apartment buildings.

Healthy Neighbourhood policies contained in Section 2.3.1 of the Official Plan direct that most new residential development be focused in the *Downtown*, the *Centres* and along

Avenues in order to preserve the shape and feel of the City's neighbourhoods, including *Apartment Neighbourhoods*. A cornerstone policy is to ensure that new development respects the existing physical character of the area, reinforcing the stability of the neighbourhood. Section 2.3.1 also specifies that developments in *Apartment Neighbourhoods* that are adjacent or close to *Neighbourhoods* will be compatible with those *Neighbourhoods*, and that intensification will be carefully controlled so that neighbourhoods are protected from negative impact. The proposed development is not supported even within an *Apartment Neighbourhoods* designation given that the development introduces a building form and level of intensification that is not compatible with and does not reinforce the stability of the surrounding neighbourhood.

Built Form

The proposed massing of the apartment buildings does not conform to the Official Plan and has not demonstrated compliance with the City's urban design guidelines. Policy 3.1.4.4 of the Official Plan directs that mid-rise buildings will be designed to have heights generally no greater than the width of the right-of-way it fronts onto. As Steeles Avenue West has a right-of-way of 36 metres, the proposed buildings do not conform to this mid-rise building policy.

The proposed building height should be reduced to be consistent with the adjacent right-of-way width to meet the definition of a mid-rise building, which will also minimize the shadow impacts on the boulevard of Steeles Avenue West. Adjustments to the building setbacks and angular planes are also required to meet objectives of the Official Plan and urban design guidelines.

Rental Housing Demolition and Replacement

Section 3.2.1 of the Official Plan contains the City's policies pertaining to the provision, protection, and replacement of rental housing. Policy 3.2.1.6 of the Official Plan requires new development that would result in the loss of six or more rental dwelling units to replace at least the same number, size, and type of rental units at similar rents to those in effect at the time of application. The policy also requires the applicant to provide an acceptable tenant relocation and assistance plan, addressing the right of existing tenants to return to the replacement units at similar rents and other assistance to lessen hardship.

In accordance with Policy 3.2.1.6, the applicant is proposing to replace the existing 60 rental dwelling units in townhouse form, by their respective unit types, and with larger unit sizes. The applicant is required develop and finalize an acceptable tenant relocation and assistance plan in collaboration with City Planning staff, and coordinate with City Planning staff to organize a tenant consultation meeting to review the proposal, the proposed replacement rental unit layouts, and the proposed tenant relocation and assistance plan with existing residents.

Should the OLT allow the appeal in whole or in part, City staff recommend that the final order be withheld until the OLT has been advised that City Council has approved the Rental Housing Demolition application and the Owner has entered into, and registered on title to the lands, one or more agreements with the City, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, securing the replacement rental housing, tenant relocation and assistance plan and any other rental housing related matters.

Parkland

The application proposes an on-site parkland dedication located at the southwest of the site with a size of 2,162 square metres. At the alternative rate of one hectare per 600 units as specified in Section 42 of the *Planning Act* and given that the site is less than five hectares in size, the total parkland dedication requirement is 1,417.38 square metres.

The size and location of the proposed park is acceptable to staff, and the design and landscaping of the park will be done in conjunction with the City's Landscape Architecture Unit. However, a five-metre setback is required between all building faces and parkland boundaries. The application currently proposes insufficient setbacks between building faces and the parkland.

In the event that the OLT allows the appeal in whole or in part, the final Order should be withheld until City Council approves the acceptance of a development charge credit against the Parks and Recreation component of the Development Charges for the design and construction by the Applicant of the above base park improvements to the satisfaction of the General Manager, Parks, Forestry and Recreation.

Servicing

In the event that the OLT allows the appeal in whole or in part, the final Order should be withheld until the Owner has satisfactorily addressed the matters in the Engineering and Construction Services Memorandum dated December 7, 2022, and any outstanding issues arising from further technical review (including provision of acceptable reports and studies), as they relate to the Official Plan and Zoning By-law Amendment application to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

As per the memo from Engineering and Construction Services dated December 7, 2022, due to outstanding servicing issues staff are recommending that the site be zoned with a holding provision ("H") until such time that an acceptable sanitary system solution is constructed and operational as determined by the Chief Engineer & Executive Director, Engineering and Construction Services. This may require the applicant to obtain MECP Environmental Compliance Approval and upgrade existing off-site municipal infrastructure.

Wind Impacts

The wind study submitted by the applicant has identified uncomfortable and unsafe wind conditions on the sidewalk near the northwest and northeast corners of the site. It has also identified undesirable wind conditions on the outdoor amenity space on the second floor between Buildings A and B. Public Realm and Built Form policies of the Official Plan, including Policies 3.1.1 and 3.1.3, specify that comfortable wind conditions at the street and adjacent open spaces should be provided to preserve the utility and intended use of the public realm.

Transportation Demand Management

Based on staff's review of the Transportation Impact Study (TIS) Report prepared by BA Group dated October 2022, a stronger Transportation Demand Management (TDM) is required to support the proposed parking reduction, address the site related vehicular traffic issues, and satisfy the requirements of the Toronto Green Standards. Potential TDM measures that are considered appropriate include but are not limited to providing space on-site to accommodate a future Bike Share Station and the provision of car-share vehicles and parking spaces located in a highly visible and accessible location.

In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending confirmation that the Owner has submitted a revised Transportation Demand Management Plan acceptable to, and to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services and that matters arising from such study be secured, if required.

Tree Preservation and Removal

As per the Urban Forestry memo dated December 6, 2022, the proposal is inconsistent with parts of the Official Plan as it relates to tree canopy cover. As proposed, this project will require the removal of three (3) City trees, forty-three (43) privately owned trees on the subject site and one (1) boundary tree. It is expected that the proposal will conform with relevant Official Plan policies.

Section 3.1.3 of the Official Plan directs that development will preserve existing mature trees wherever possible and incorporate them into the development site, and that outdoor amenity spaces accommodate existing and mature tree growth. Section 3.4.1 of the Official Plan directs that city-building activities and changes to the built environment be based on preserving and enhancing the urban forest, including providing suitable growing environments for trees, increasing tree canopy coverage and diversity, and regulating the injury and destruction of trees.

Conclusion

The proposal has been reviewed against the policies of the PPS, the Growth Plan, the Toronto Official Plan and applicable City guidelines intended to implement Official Plan policies. The current proposal does not conform with the Toronto Official Plan and does not implement relevant Design Guidelines. This report recommends that City Council direct the City Solicitor, with appropriate staff, to attend the OLT in opposition to the Application in its current form and to continue discussions with the Applicant in an attempt to resolve outstanding issues.

CONTACT

Heather Au, Planner, Community Planning
Tel. No. (416) 396-5570
E-mail: Heather.Au@toronto.ca

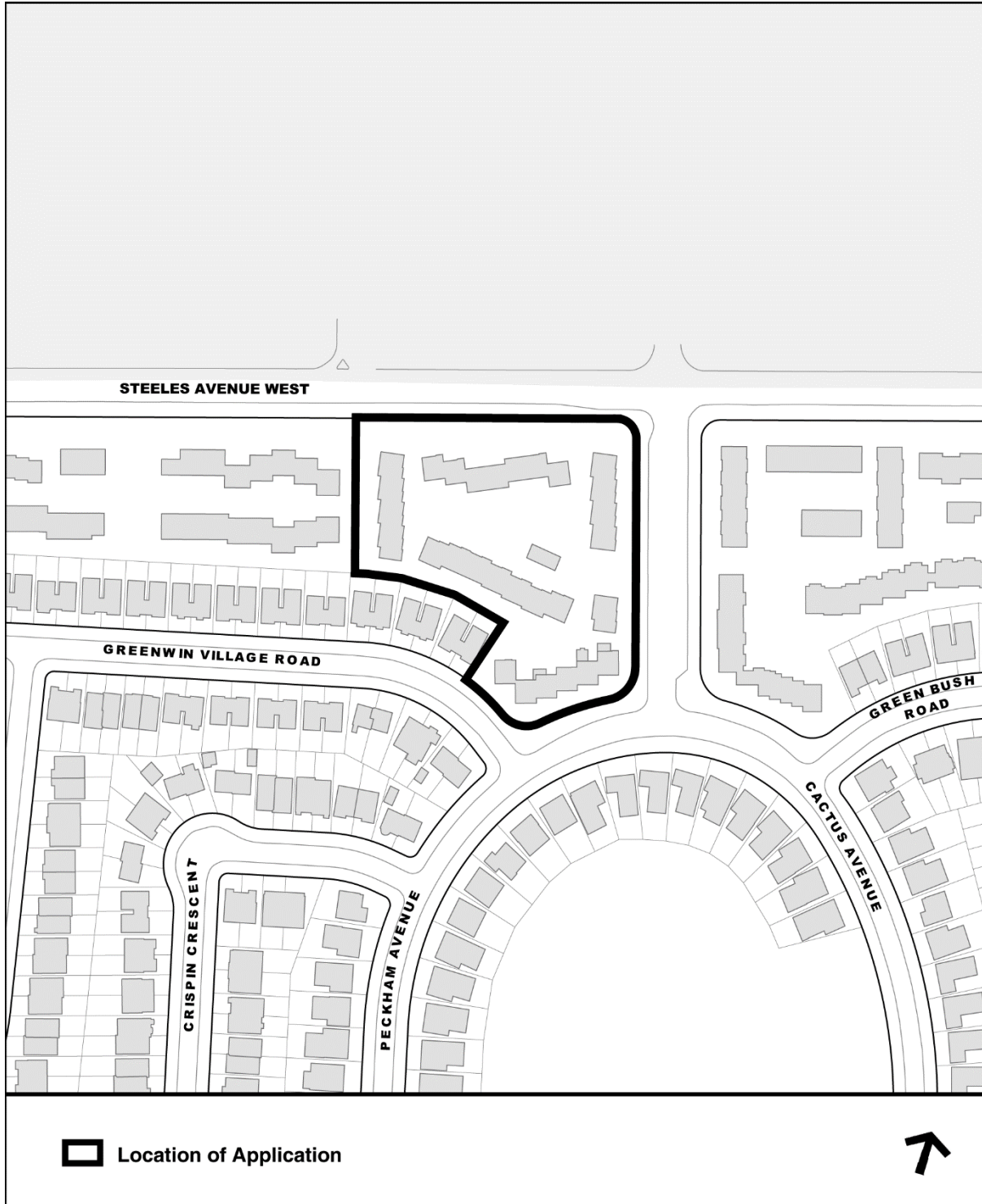
SIGNATURE

David Sit, MCIP, RPP
Director, Community Planning, North York District

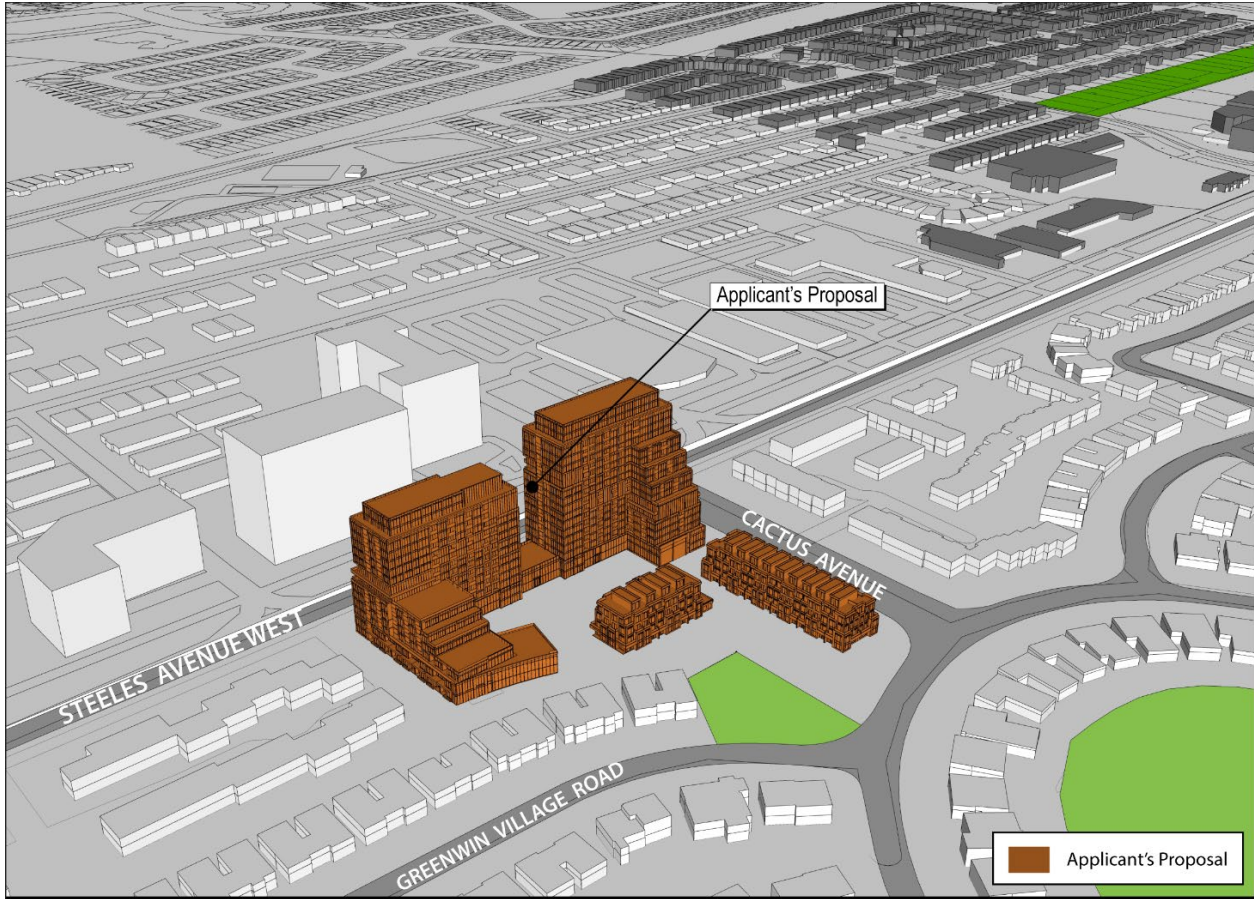
ATTACHMENTS

Attachment 1: Location Map
Attachment 2: 3D Model of Proposal in Context
Attachment 3: Site Plan
Attachment 4: Official Plan Map
Attachment 5: Zoning By-law 569-2013 Map
Attachment 6: Application Data Sheet

Attachment 1: Location Map



Attachment 2: 3D Model of Proposal in Context

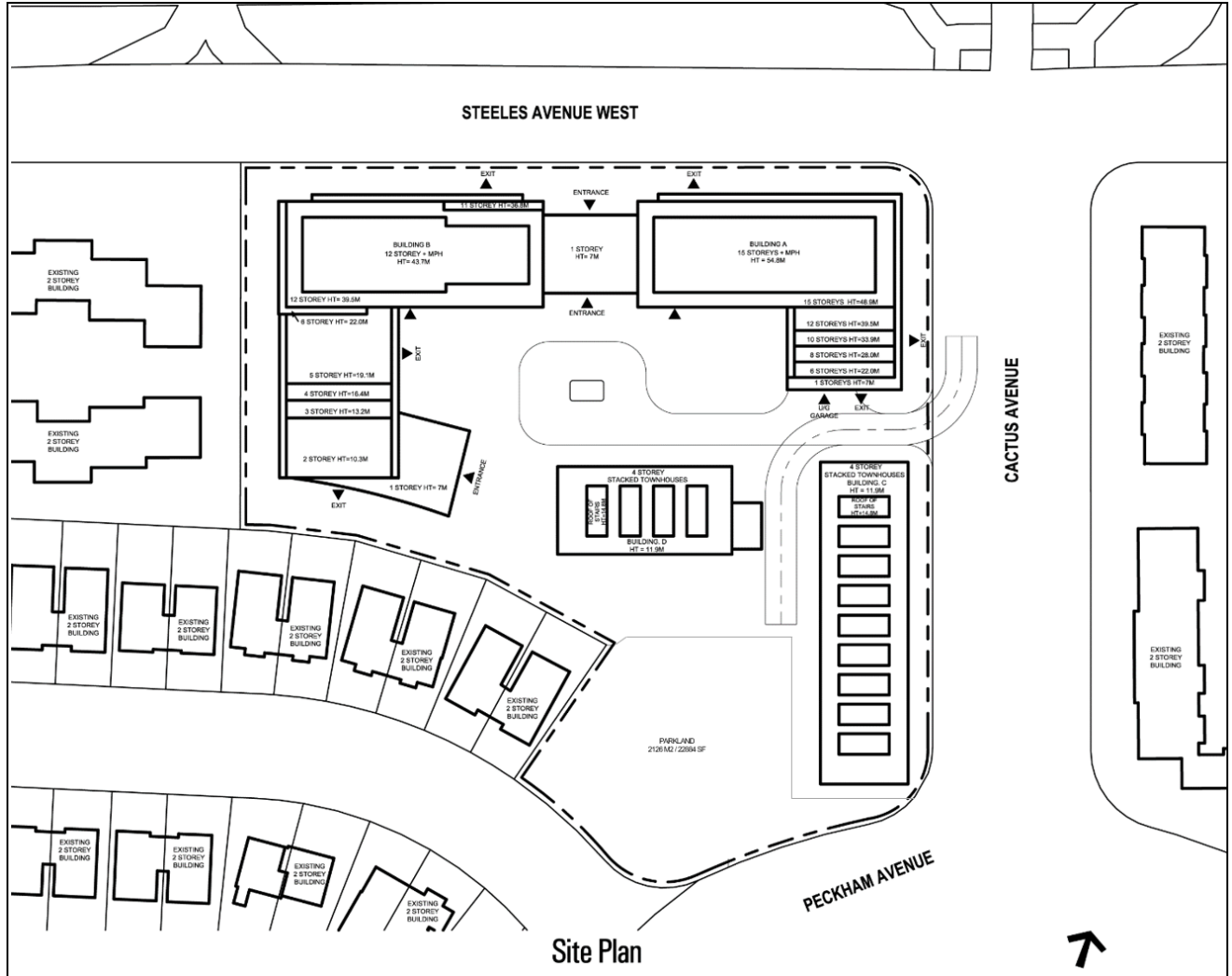


View of Applicant's Proposal Looking Northeast

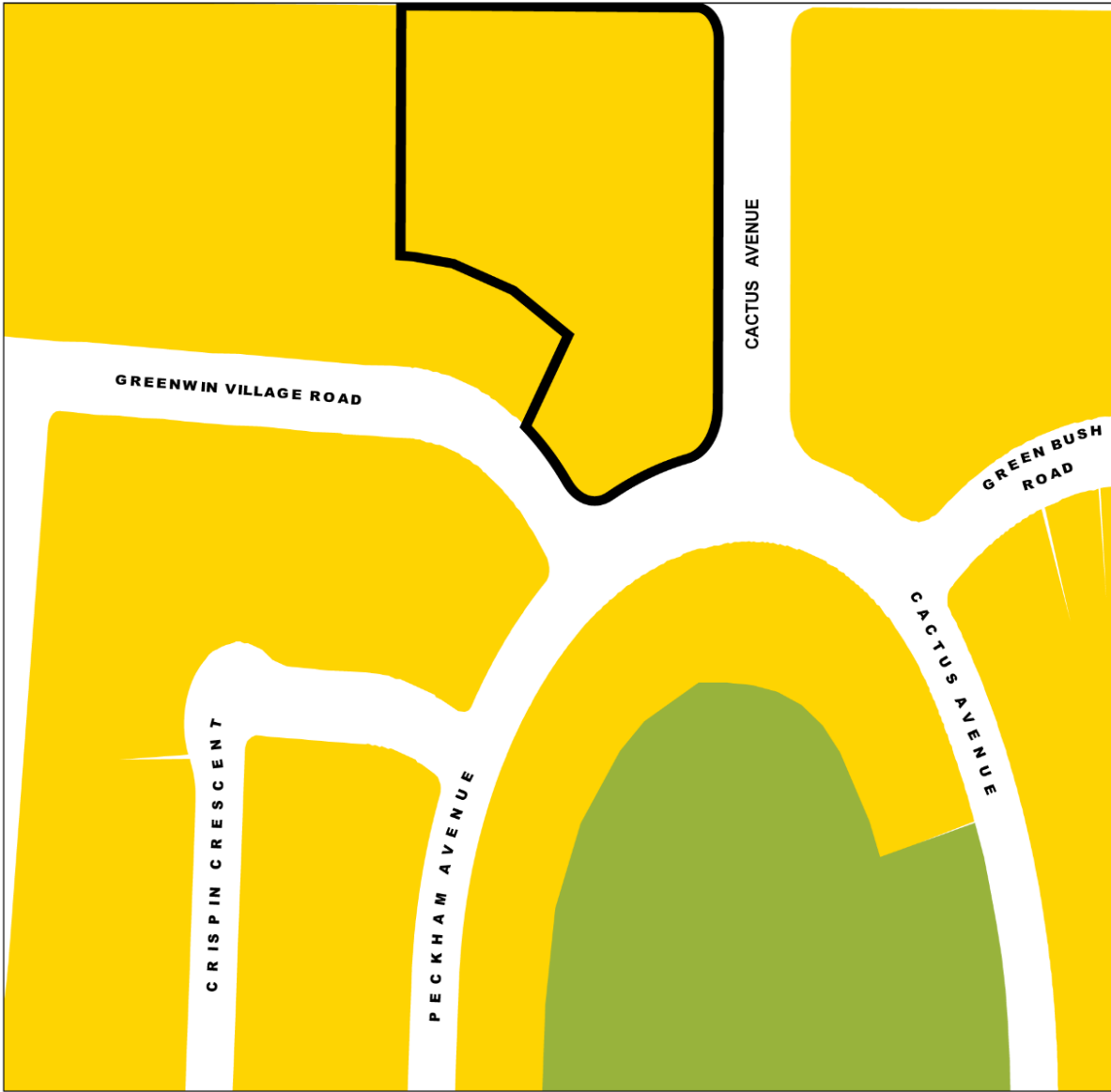


11/30/2021

Attachment 3: Site Plan



Attachment 4: Official Plan Map



Official Plan Land Use Map #16

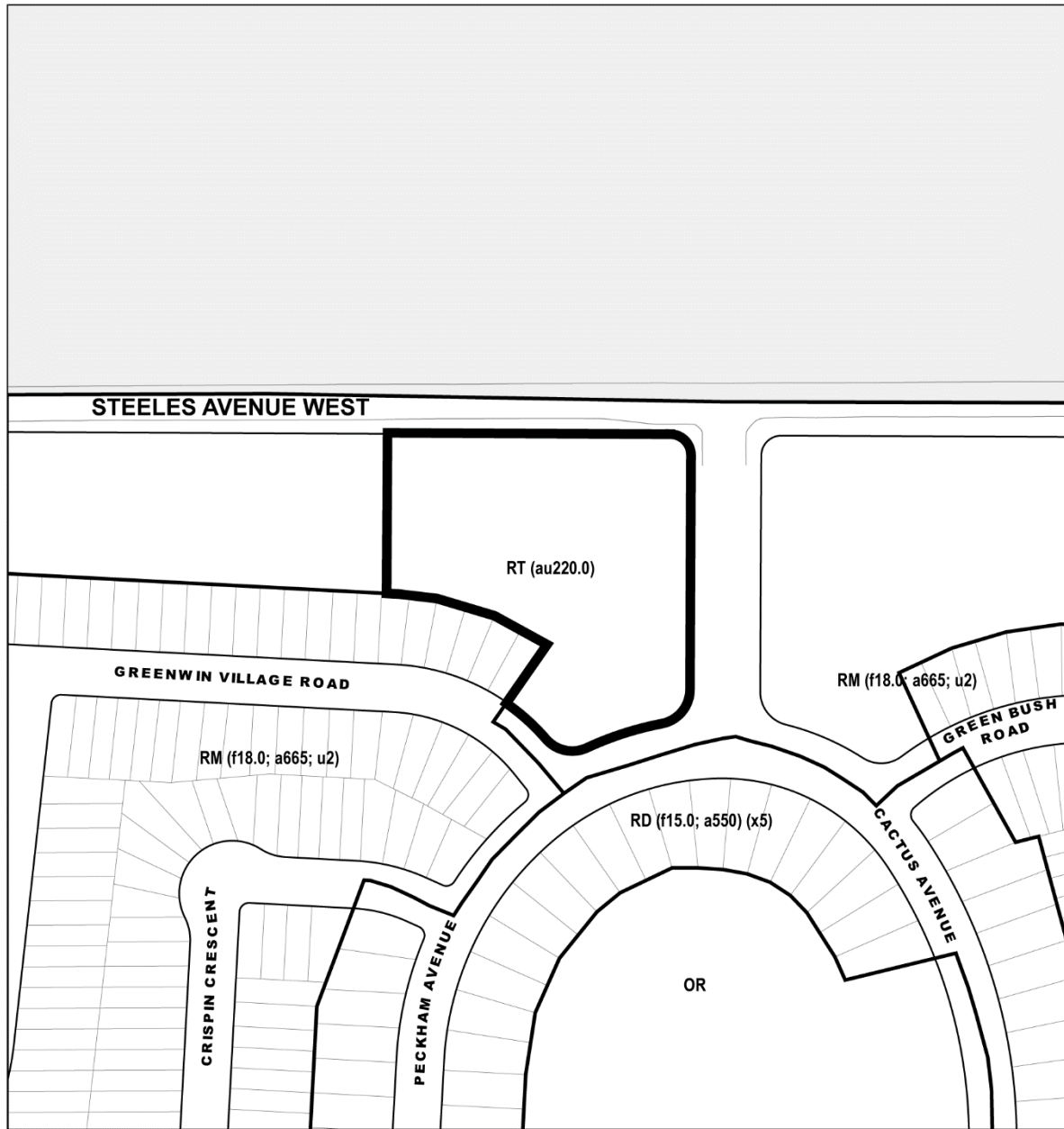
150-160 Cactus Avenue

File # 21 226750 NNY 18 0Z



↑
Not to Scale
Extracted: 11/15/2021

Attachment 5: Zoning By-law 569-2013 Map




Zoning By-law 569-2013

150-160 Cactus Avenue

File # 21 226750 NNY 18 0Z

-  Location of Application
- RD** Residential Detached
- RT** Residential Townhouse
- RM** Residential Multiple
- OR** Open Space Recreation


 Not to Scale
 Extracted: 11/15/2021

Attachment 6: Application Data Sheet

Municipal Address: 150-160 CACTUS AVE **Date Received:** October 16, 2021

Application Number: 21 226750 NNY 18 OZ

Application Type: OPA / Rezoning, OPA & Rezoning

Project Description: Official Plan and Zoning By-law Amendment Application to facilitate the development of the site for a residential development comprised of 12 and 15-storey apartment buildings, and two 4-storey back to back townhouse buildings. The proposed residential gross floor area is 35,700 square metres. A total of 467 residential dwelling units are proposed, of which, 60 shall be rental dwelling units. A 2,126 square metre public park is also proposed on site.

Applicant	Agent	Architect	Owner
MICHAEL GOLDBERG			160 CACTUS AVENUE LIMITED

EXISTING PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	RT (au220.0)	Heritage Designation:
Height Limit (m):	10.5	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq m):	14,174	Frontage (m):	124	Depth (m):	103
-------------------	--------	---------------	-----	------------	-----

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			4,947	4,947
Residential GFA (sq m):	6,805	0	35,700	35,700
Non-Residential GFA (sq m):				
Total GFA (sq m):	6,805	0	35,700	35,700
Height - Storeys:			15	15
Height - Metres:			49	49

Lot Coverage Ratio (%):	34.9	Floor Space Index:	2.52
-------------------------	------	--------------------	------

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	35,700	
Retail GFA:		
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:	60	0	60	60
Freehold:				
Condominium:			407	407
Other:				
Total Units:	60	0	467	467

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:			244	153	70
Total Units:			244 (52%)	153 (33%)	70 (15%)

Parking and Loading

Parking Spaces: 298 Bicycle Parking Spaces: 403 Loading Docks: 1

CONTACT:

Heather Au, Planner, Community Planning
(416) 396-5570
Heather.Au@toronto.ca